

Notice of Allowability

Application No.

10/801,909

Examiner

Kent L. Bell

Applicant(s)

BESSHO ET AL.

Art Unit

1661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to application filed 3/16/04
2. ☒ The allowed claim(s) is/are THE CLAIM
3. ☒ The drawings filed on 3/16/04 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- * Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

K.L. Bell

Detailed Action

Examiner's Amendment

An Examiner's Amendment to the record appears below. Should the changes and/or additions be unacceptable to Applicant, an amendment may be filed as provided by 37 CFR 1.312.

To ensure consideration of such an amendment, it **Must** be submitted no later than the payment of the Issue Fee.

Examiner's Amendment Authorized

Authorization for this Examiner's Amendment was given in a telephone interview with Attorney Kenyon Schuett on August 26, 2004.

Amendment to the Specification:

The Specification has been amended as follows:

A. Page 1, after line 2, before line 3, The following has been inserted:

--Genus/Species

Calibrachoa species

Varietal Denomination

'Kakegawa S63'--.

Detailed Action

- B. Page 1, line 16, --. 'Kakegawa S63' was asexually reproduced by stem cuttings in Salinas, California-- has been inserted after "S63' "
- C. Page 1, line 23, "a single inflorescence" has been deleted and --flowers-- has been inserted in its place.
- D. Page 1, line 24, "mature inflorescence" has been deleted and --entire plant-- has been inserted in its place.
- E. Page 3, line 1, Both occurrences of "Dip 'N Grow" have been deleted and --DIP 'N GROW-- has been inserted in their places.
- F. Page 3, line 19, "spp." has been deleted and --sp.-- has been inserted in its place.
- G. Page 3, line 20, "Petunia" has been deleted and --Calibrachoa-- has been inserted in its place.
- H. Page 4, line 15, "Clear" has been deleted and --Whitish-- has been inserted in its place.

Detailed Action

I. Page 4, after line 16, before line 17, --Stem length - - 1.5 cm – 2.0 cm.-- has been inserted.

J. Page 5, after line 8, before line 9, The following has been inserted:

-- Flower depth - - 2.0 cm – 2.5 cm.

Floral tube length - - 1.3 cm – 1.5 cm.

Floral tube diameter - - 0.4 cm – 0.5 cm.--.

K. Page 5, after line 10, before line 11, The following has been inserted:

--Sepal shape - - Lanceolate.

Sepal apex - - Mucronate.

Sepal margin - - Entire.--.

L. Page 5, after line 12, before line 13, The following has been inserted:

--Bud length - - 1.5 cm.

Bud diameter - - 0.3 cm – 0.4 cm.--.

M. Page 5, after line 15, before line 16, --Peduncle color - - RHS 144C (yellow-green)--
has been inserted.

Detailed Action

- N. Page 5, line 17, "Placenta arrangement - - Central." has been deleted and --Pistil number - - 1.-- has been inserted in its place.
- O. Page 5, after line 20, before line 21, The following has been inserted:
- Petal shape - - Spatulate.
- Petal apex - - Truncate.
- Petal margin - - Entire.--.
- P. Page 6, line 5, " 'Kakegawa S42' (US PP12,147 P2" has been deleted and --'Colorburst Rose' (U.S. Plant Patent number 12,147-- has been inserted in its place.
- Q. Page 6, Table 1, line 1, "**Kakegawa S42**" has been deleted and --**Colorburst Rose**-- has been inserted in its place.
- R. Page 6, Table 1, line 5, "N79C" has been deleted and --79C-- has been inserted in its place.
- S. Page 6, Table 2, line 2, --Upper-- has been inserted after "Color".

Detailed Action

T. Page 6, Table 2, line 2, "74A" has been deleted and --N74A-- has been inserted in its place.

Future Correspondence

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Kent L. Bell whose telephone number is (571) 272-0973. The Examiner can normally be reached Monday through Thursday from 6:00 am to 4:30 pm.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Andrew Wang, can be reached at (571) 272-0811.

The fax phone number for the group is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (571) 272-1600

K. L. Bell

**KENT BELL
PRIMARY EXAMINER**

Kent L. Bell